

AMENDED IN ASSEMBLY MAY 7, 2015

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 17**

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**Introduced by Assembly Member Bonilla**

*(Coauthors: Assembly Members Baker, Calderon, Chávez, Dababneh, Dodd, Cristina Garcia, Lackey, Maienschein, Salas, Steinorth, and Waldron)*

*(Coauthors: Senators Allen and Vidak)*

December 1, 2014

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An act to add and repeal Section 17053 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

### LEGISLATIVE COUNSEL’S DIGEST

AB 17, as amended, Bonilla. Personal income taxes: credit: qualified tuition program.

The Personal Income Tax Law allows various credits against the taxes imposed by that law.

This bill would, for taxable years beginning on or after January 1, 2016, and before January 1, 2021, allow a credit under the Personal Income Tax Law in an amount equal to 20% of the monetary contributions made to one or more qualified tuition programs, as defined, by a qualified taxpayer, as defined, during the taxable year, not to exceed \$500. This bill would provide that the credit amount in excess of tax liability is refundable in those years in which an appropriation for that purpose is made by the Legislature.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17053 is added to the Revenue and  
2     Taxation Code, to read:  
3     17053. (a) (1) For each taxable year beginning on or after  
4     January 1, 2016, and before January 1, 2021, there shall be allowed  
5     to a qualified taxpayer a credit against the “net tax,” as defined in  
6     Section 17039, in an amount as determined by paragraph (2).  
7     (2) The credit amount allowed pursuant to this section shall be  
8     the lesser of the following:  
9     (A) Twenty percent of the monetary contributions made by a  
10    qualified taxpayer to one or more qualified tuition programs during  
11    the taxable year.  
12    (B) Five hundred dollars (\$500).  
13    (b) For the purposes of this section:  
14    (1) “Nonqualified withdrawal” means—~~any~~ a payment or  
15    distribution from a qualified tuition program that is subject to  
16    additional tax pursuant to Section 529(c)(6) of the Internal Revenue  
17    Code, relating to additional tax.  
18    (2) “Qualified taxpayer” means an individual who, on behalf  
19    of a beneficiary, contributes money to a qualified tuition program  
20    for which the individual is the account owner and has one of the  
21    following annual adjusted gross incomes:  
22    (A) In the case of a single individual or married individual filing  
23    a separate return, one hundred thousand dollars (\$100,000) or less.  
24    (B) In the case of a head of household or surviving spouse, as  
25    defined in Section 17046, or a married couple filing a joint return,  
26    two hundred thousand dollars (\$200,000) or less.  
27    (3) “Qualified tuition program” means a qualified tuition  
28    program, as defined in Section 529 of the Internal Revenue Code.  
29    (c) When a qualified taxpayer receives a nonqualified  
30    withdrawal, in addition to any tax imposed under this part, an  
31    additional tax shall be imposed in an amount that is the lesser of  
32    10 percent of that nonqualified withdrawal or the total amount of  
33    credit allowed under subdivision (a) for the taxable year and all  
34    prior taxable years in which the qualified taxpayer was allowed a  
35    credit pursuant to this section.

1 (d) That portion of any credit allowed under this section that is  
2 in excess of tax liability shall be credited against other amounts  
3 due, if any, and the balance, if any, upon an appropriation by the  
4 Legislature, be refunded to the qualified taxpayer.

5 (e) (1) The Franchise Tax Board may prescribe rules, guidelines,  
6 or procedures necessary or appropriate to carry out the purposes  
7 of this section.

8 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
9 Division 3 of Title 2 of the Government Code does not apply to  
10 any standard, criterion, procedure, determination, rule, notice, or  
11 guideline established or issued by the Franchise Tax Board  
12 pursuant to this section.

13 (f) This section shall remain in effect only until December 1,  
14 2021, and as of that date is repealed.

15 SEC. 2. This act provides for a tax levy within the meaning of  
16 Article IV of the Constitution and shall go into immediate effect.